MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2022 / 2023 (TERM ID 2220)

DBL5624 – PRINCIPLES OF COMPANY LAW

(For Diploma Students Only)

10 JULY 2023
2.30 p.m. – 4.30 p.m.
(2 Hours)

INSTRUCTIONS TO STUDENT

1. This question paper consists of **THREE (3)** pages with **FOUR (4)** questions.
2. Answer all questions.
3. You are required to cite relevant provisions and case laws.
4. Write all your answers in the Answer Sheets provided.

QUESTION 1

a) Mr. Wang has just been appointed as an executive director in Mr. Toys Sdn. Bhd. After a few months of Mr. Wang holding the position, the company found out that he has been declared bankrupt. Therefore, the board of directors enquired regarding his qualification. Mr. Wang contended that even though he is a bankrupt person, he is still able to perform his duties very well as a director. He also argued that he will be discharged from bankruptcy status soon.

As a legal advisor, advise whether Mr. Wang is still qualified to be a director according to the Companies Act 2016. (10 marks)

b) Flash Shipping Sdn. Bhd is a private company incorporated in Kuala Lumpur. There are two executive directors in the company namely, Mr. Alex and Mr. Sam. Mr. Alex is an Indonesian citizen, but he holds a Permanent Resident status in Malaysia meanwhile Mr. Sam is a Malaysian citizen. One day, Mr. Alex decided to resign from his position in order to focus on his family business in Indonesia. Therefore, Mr. Alex suggested to appoint his friend, Mr. Satria to be the director for Flash Shipping Bhd. Mr. Satria is an Indonesian citizen and never resided in Malaysia. Mr. Sam is confused as to whether the company can operate if he is the only director that reside in Malaysia.

Based on the situation above, advise whether Flash Shipping Sdn. Bhd can operate if Mr. Sam is the only director that reside in Malaysia according to the Companies Act 2016.

(15 marks)

[Total: 25 marks]

QUESTION 2

a) Briefly explain the removal of auditor in accordance to section 276(1) of the Companies Act 2016. (5 marks)

b) Sofea has been appointed as an auditor in CMI Resources Sdn. Bhd. One day, she found out that the company's accounts were not properly drawn up. She discovered that the upper management had embezzled the fund for illicit purposes and bribery. Therefore, Sofea started to check thoroughly all the accounting records and financial statements.

During the general meeting, Sofea disclosed all the evidence of the embezzlement. Most of the shareholders and members were shocked to hear this. Due to that, the board of directors intend to commence legal proceedings against Sofea on the grounds of defamation due to the statement that she made during the meeting. They also argued that Sofea had damaged the company's reputation. Sofea defended that she only did her job properly and fought for justice.

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Based on this situation, discuss whether Sofea can be liable for defamation in respect of her statement as an auditor according to the Companies Act 2016. (10 marks)

c) Big Tree Sdn. Bhd is an advertising company in Malaysia. Recently their auditor has resigned. Therefore, the directors agreed to appoint Farah as an auditor in the company. She is an experienced and qualified auditor that has been approved by the minister. A few months later, it was disclosed that Farah owes the company RM 10,000. Due to that disclosure, the shareholders argued about her qualification as an auditor's.

Based on this situation, discuss whether Farah is still qualified to become an auditor according to the Companies Act 2016. (10 marks)

[Total: 25 marks]

QUESTION 3

a) Scheme of compromise or arrangement is one of the ways to save the company from financial difficulties.

Explain the followings:

(i) Moratorium scheme of arrangement (2 marks)

(ii) Compromise scheme of arrangement (10 marks)

b) State any **TWO (2)** parties that may apply to the court for a statutory arrangement according to the Section 366 Companies Act 2016. (2 marks)

c) Explain whether an insolvent company may apply to the court for approval of the scheme of arrangement by referring to case laws and the Companies Act 2016. (11 marks)

[Total: 25 marks]

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QUESTION 4

a) Julie is an entrepreneur. She has a company named Jula Juli Bintang Sdn. Bhd. The company produces various types of printed scarves and fabric In 2018, the company was well bloomed and was awarded the Consumer's Choice Award. However, in 2019, there was a viral video in social media picturing Julie, the managing director of the company assaulting her employees. Due to this incident, many people criticised and boycotted her products. In 2020, the company started suffering loss due to the Covid-19 pandemic and eventually failed to pay the debt to their supplier, Kaen Textile Sdn. Bhd. The employees also had been retrenched from their jobs.

Kaen Textile Sdn. Bhd has demanded Jula Juli Bintang Sdn. Bhd to pay the debts amounting to RM 348,000. The notice of demand was sent to them but they still failed to pay the arrears,

Advise Kaen Textile Sdn. Bhd, whether they can apply for winding up by the court and whether they have the grounds to do so according to the Companies Act 2016.
(15 marks)

b) Company once created by law can only be dissolved by a process of law. Explain the effects of winding up on the employee. (6 marks)

c) State the **FOUR (4)** procedures for winding up by the court. (4 marks)

[Total: 25 marks]

End of Paper